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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,608

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Luc Hasenfratz

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EXAMINER

BIDWELL, JAMES R

ART UNIT

PAPER NUMBER

3651

MAIL DATE

DELIVERY MODE

08/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,608	Applicant(s) HASENFRATZ ET AL.	
	Examiner James R. Bidwell	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-16 and 24-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-16 and 24-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-16, 24-27, 29, 32-38, 40 and 42-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Didriksen et al. (U.S. Patent 6,728,597).

Didriksen et al. show an apparatus 2 for storing and dispensing items 13 having a plurality of storage regions 4 which hold trays 6, a dispensing station 1, the storage regions 4 circulate around a continuous path such that each storage region is brought into alignment with dispensing station 1 and there is a connecting unit 3 with stationary shelves 10. The items may be delivered and held on shelves 10 or passed on into regions 4. Note that the “or” language at the end of claim 14 can be fairly read that delivery to one of the claimed regions meets the claim limitation.

Re claim 15, items may certainly be placed manually into the regions 4 if necessary.

Re claim 16, disclosed is the possibility of there being more than one dispensing station. The duplication of known parts is ordinarily considered inherent.

Re claim 24, the storage regions are physically delimited.

Re claim 25, there is at least one shelf 5 for the trays 6.

Re claim 26, the shelves 5 allow height reconfiguration.

Re claim 27 the dispensing station has means for removing items 13 from the storage regions 4.

Re claim 29, the items are pulled out.

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Re claim 32, a plurality of items 13 may be removed from each storage region 4 when it is aligned with the dispensing station 1.

Re claim 33, shelf 10 can be considered a chute across which the items are slid.

Re claim 34, the regions 4 circulate when required.

Re claim 35, the regions 4 are halted when aligned with a dispensing or loading point.

Re claim 36, items 36 are transferred from static region 10 to circulating regions 4.

Re claim 37, orders are made-up in advance.

Re claim 38, the regions 4 are periodically brought into alignment with station 1.

Re claim 40, as per claim 29 rejection.

Re claim 42, as per claim 32 rejection.

Re claim 43, as per claim 34 rejection.

Re claim 44, as per claim 35 rejection.

Re claim 45, as per claim 36 rejection.

Re claim 46, as per claim 37 rejection.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Didriksen et al. in view of Coles et al. (U.S. Patent 5,363,258).

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Didriksen et al. do not disclose pushing items. However, shown by Coles et al. is a pusher 40 for moving items 60. To use a pusher as taught by Coles et al. instead of a puller would have been obvious to one of ordinary skill in the art as an engineering expediency which would result in the predictable result of removal of the items.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Didriksen et al. in view of Bossler et al. (U.S. Patent 4,470,741).

Didriksen et al. do not disclose a hook to pull items. However, shown by Bossler et al. is such a hook 50. To use this hook would have been obvious to one of ordinary skill in the art as an obvious engineering expediency which would yield the predictable result of removing the items in an alternate equivalent manner.

Claims 31 and 41 rejected under 35 U.S.C. 103(a) as being unpatentable over Didriksen et al. in view of Pohjonen et al. (U.S. Patent 5,380,139).

Didriksen et al. do not disclose the use of suction to remove items. However, shown by Pohjonen et al. is the use of a suction device 35 to remove items from shelves. To use such a device on Didriksen et al. would have been obvious to one of ordinary skill in the art as an engineering expediency which would yield the predictable result of removing items from shelves.

Applicant's arguments filed 05/19/2008 have been fully considered but they are not persuasive. The "either" and "or" language added to the independent claims may be fairly read on Didriksen et al. since only one of the conditions need be present to be met fully by the applied reference.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Bidwell whose telephone number is (571)272-6910.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford, can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/James R Bidwell/

Primary Examiner, Art Unit 3651

08/19/2008